



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

September 20 2004

Ms. Eileen Murley
Hampshire Chemical Corporation
2 East Split Brook Road
Nashua, NH 03060

Re: Docket No. AF 04-056 – Hampshire Chemical Corporation

Dear Ms. Murley:

Enclosed for your records is a copy of the Administrative Fine by Consent Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Waste Management Division Director, and accepted by Commissioner Michael P. Nolin on September 16, 2004. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael Scalfani,
Legal Assistant

cc: Anthony P. Giunta, P.G., Director, DES Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Linda Birmingham, DES WMD
James Martin, DES Public Information Officer



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



Please Note: *Effective September 1, 2003, the street address is 29 Hazen Drive*

Hampshire Chemical Corporation
2 East Spit Brook Road
Nashua, NH 03060

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 04-056

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Hampshire Chemical Corporation, pursuant to RSA 147-A:17-a. This Administrative Fine by Consent ("Agreement") is effective upon signature by all parties.

II. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its main office at 29 Hazen Drive, Concord, NH.
2. Hampshire Chemical Corporation ("Hampshire") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on December 1, 1992. Hampshire has a mailing address of 2 East Spit Brook Road, Nashua, NH.

III. BACKGROUND

1. Pursuant to RSA 147-A, DES regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.
3. Hampshire is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on August 18, 1980. EPA Identification Number NHD048724173 was assigned to Hampshire's site located at 2 East Spit Brook Road in Nashua, NH.

4. On February 24, 2004, Robbie D. Wood, Inc. ("Wood") picked up and transported one (1) load of hazardous waste (Formaldehyde) from Hampshire using New Hampshire Manifest Number NH H0061048. This manifest deals with a shipment of hazardous waste (Formaldehyde) from Hampshire to Clean Harbors Deer Park ("Clean Harbors"), Laporte, Texas, as transported by Wood and Clean Harbors. Wood did not register as a transporter of Hazardous Waste with DES, prior to transporting the one (1) load of hazardous waste from Hampshire. As a result of the violation of the Hazardous Waste Rules, DES issued a Notice of Past Violation ("NOPV") to Hampshire on May 6, 2004. Based on the violation documented, DES believes that an administrative fine is appropriate in this case for the Class I violation.

IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. Specifically, as stated in the NOPV, Hampshire failed to determine that the transporter, Wood, possessed a current and valid New Hampshire hazardous waste transporter registration, as required by Env-Wm 507.03 (c)(1). Env-C 612.06(o) authorizes a fine of \$2,000 per shipment offered.

V. PAYMENT, WAIVER OF HEARING

1. Hampshire agrees to pay \$1,800 as itemized below, upon execution of this Agreement by Hampshire.

a. This violation is a Class I violation. DES has determined that due to the fact that Hampshire acted in good faith to comply (*i.e.*, Clean Harbors had a contractual obligation to provide Hampshire with a registered transporter) that a 10% reduction should be applied. DES is thus seeking a fine of \$1,800.

2. Payment under Section V. Paragraph 1 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and shall be mailed to:

DES Legal Unit
Attn: Michael Sclafani, Legal Assistant
PO Box 95
Concord, NH 03302-0095


3. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

4. By executing this Agreement, Hampshire waives its right to a hearing on or any appeal of the administrative fine identified in Section IV. Paragraph 1, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

5. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Hampshire, and the Director of the Waste Management Division, and the Commissioner of DES.


6. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

HAMPSHIRE CHEMICAL CORPORATION

COPY

Ms. Eileen Murney, Responsible Care Leader
Duly Authorized

9/14/04
Date

DEPARTMENT OF ENVIRONMENTAL SERVICES

COPY

Anthony L. Giunta, P.G.
Director
Waste Management Division

9/16/04
Date

COPY

for Michael P. Nolin, Commissioner

9/18/04
Date